

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

THE PONCA TRIBE OF INDIANS	)	
OF OKLAHOMA, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case Number CIV-05-445-C
	)	
CONTINENTAL CARBON COMPANY,	)	
et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION**

Before the Court is the Defendants' Motion for Temporary Restraining Order and Preliminary Injunction. This matter was heard by the Court on November 21, 2005, at which time Plaintiffs provided an oral response. The Court also heard from Griffin Communications, L.L.C., in opposition to Defendants' motion.

As the Court made clear at the hearing, Defendants have failed to demonstrate irreparable harm would occur in the absence of a preliminary injunction. The only harm noted by Defendants was the possibility of a jury taint. Such a harm is far too remote to warrant injunctive relief. Given the geographical area from which the Court draws its jury pool, it is unlikely the current media coverage will prevent the Court from seating an impartial jury. Indeed, to the extent a potential juror has some exposure to the coverage, that issue can be addressed through voir dire, peremptory and/or challenges for cause, and jury instructions.

Further, Defendants have failed to demonstrate the proposed injunction would not be adverse to the public interest. Finally, given the potential that this matter may be certified as a class action, it is impossible at this time to know who is covered by any injunction. While the Court is sympathetic to the concerns that led Judge Page to issue an injunction in the state court, such an action is not supported by the facts relevant to this case.

Accordingly, Defendants' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. No. 68) is DENIED.

IT IS SO ORDERED this 21st day of November, 2005.

  
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ROBIN J. CAUTHRON  
United States District Judge